

From: [Erin Chancellor](#)
To: [Foster, Anne](#)
Cc: [Debbie Miller](#); [Allen, Philip](#); [Satya Dwivedula](#); [Charmaine Backens](#); monica.harris@tceq.texas.gov
Subject: RE: Patrick Bayou
Date: Thursday, October 22, 2015 4:02:51 PM
Attachments: [pbsustfish_TCEQ.docx](#)
[2015-10-05-Shell-Existing Permit and FS.PDF](#)
[2015-10-05-Shell-Draft Permit and FS.PDF](#)

Anne,

I apologize for not getting back to you sooner and appreciate you sending this over and allowing us to comment on the response. We added in some additional language regarding the permits to the end of your response and hope that it will be helpful. I've also attached Shell's existing water quality permit documents and draft water quality permit documents. If you have any questions, please let me know.

Thank you,

Erin E. Chancellor

Staff Attorney

Texas Commission on Environmental Quality

Litigation Division, Remediation Section

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From: Foster, Anne [<mailto:Foster.Anne@epa.gov>]
Sent: Tuesday, October 20, 2015 12:06 PM
To: Erin Chancellor; Charmaine Backens
Cc: Debbie Miller; Allen, Philip; Satya Dwivedula
Subject: RE: Patrick Bayou

Thank you all for your assistance with the sustainable fishery issue being argued by the Patrick Bayou Joint Defense Group. Attached is my summary of the applicable Texas regulations, and I would appreciate your comments and corrections. Philip Allen is out this week; if any of you have more information about which permit uses the sustainable fishery standard, I would greatly appreciate it if you could let me know. I think that would be very persuasive.

Thanks again,

Anne Foster

From: Erin Chancellor [<mailto:Erin.Chancellor@tceq.texas.gov>]
Sent: Thursday, October 01, 2015 2:13 PM
To: Foster, Anne; Charmaine Backens
Cc: Debbie Miller; Allen, Philip; Satya Dwivedula
Subject: RE: Patrick Bayou



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Anne,

Thank you for the update on Patrick Bayou. We would be happy to provide comments and/or corrections on your response to the Joint Defense Group once it is ready. If there is anything you need in the meantime, please let me know.

Thank you,

Erin E. Chancellor

From: Foster, Anne [<mailto:Foster.Anne@epa.gov>]
Sent: Wednesday, September 30, 2015 12:44 PM
To: Erin Chancellor; Charmaine Backens
Cc: Debbie Miller; Allen, Philip; Satya Dwivedula
Subject: Patrick Bayou

Erin and Charmaine,

I wanted to give you an update on the Patrick Bayou issue regarding the Texas Surface Water Quality Standards. EPA and TCEQ received a response letter from the Patrick Bayou Joint Defense Group on September 22, 2015, continuing to dispute the application of water quality standards for a sustainable fishery to Patrick Bayou. I followed up with a phone call to explain why Patrick Bayou is a sustainable fishery under the Texas regulations (using the information provided by you and by Debbie Miller at our meeting last spring). The Group is still not convinced, and has requested that a detailed rebuttal to their response to comments be provided in writing.

One point at the EPA/TCEQ meeting in the spring, raised I think by Debbie Miller, was that the discharge limits in the permits for Patrick Bayou use the sustainable fishery standard. On the phone call, the Joint Defense Group requested that we provide them with the identifying information for those permits so that they can examine the permits themselves. Philip Allen is coordinating with Satya Dwivedula to obtain this information.

The full response may not be ready for 2-3 weeks, as the Joint Defense Group appears poised to invoke dispute resolution on this issue. Once I have drafted a response on the sustainable fishery issue, I will provide it to you in the hope that you will provide your comments/corrections. Please be aware that, while you have made a very convincing case that Patrick Bayou is a sustainable fishery under the Texas regulations, this water quality standard does not appear to be an ARAR under CERCLA because of the variability inherent in the site specific modification provisions. While the ARARs issue has been a subject of longstanding discussion between EPA and TCEQ, it is my hope that we can arrive at a mutually acceptable cleanup number for this site.

Thank you for your assistance.

Anne Foster
Office of Regional Counsel

EPA Region 6